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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,095	09/11/2003	David T. Ou-Yang	9446-139 (185616)	5926

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EXAMINER

XU, LING X

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,095

Applicant(s)

OU-YANG, DAVID T.

Examiner

Ling X. Xu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/11/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-7 and 11-15 in the reply filed on 11/22/2004 is acknowledged. The traversal is on the ground(s) that, in both Group I and II claims, the colorant comprises the ink that is on the inner surface of the film and, therefore, the restriction requirement set forth in the prior Office action is improper because the restriction is based on that the Group II claims can be used to make other and materially different products such as a product with the ink layer applied on the outer surface of the loops. This is not found persuasive because Group II claims, directed to a method of making the decorative element, do not require that the colorant layer comprising the ink. In claim 9, it states that method comprising applying an ink to the film. The claim does not limit the ink to be part of the colorant nor the claim limits the ink to be applied on the inner surface. Accordingly, the restriction requirement made in the prior Office based on the ground that the Group II method can be used to make a product with the ink layer applied on the outer surface of the loops is still proper and is therefore made FINAL.

2. Claims 8-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on 11/22/2004.

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Claim Objections

4. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 5 recites that ink is transparent ink or opaque ink. Since ink can generally be categorized only into two groups, transparent ink and opaque ink. Claim 5 does not further limit the subject matter of an ink in a general term recited in the previous claim.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, it is unclear if the metallic ink is part of transparent ink or opaque ink. It is also unclear what other types of ink, other than the transparent ink and opaque ink, would be available.

Claim Rejections - 35 USC § 103

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weder et al (US 6,387,459).

Weder discloses a decorative bows made from a ribbon material comprising a plurality of loops or plurality of lengths of curled ribbon radiating from a common point (col. 20, lines 20-55). The ribbon material comprises a first sheet of a transparent polymeric layer such as clear biaxially-oriented polypropylene (col. 13, lines 1-25) and a second sheet with holographic design (col. 13, lines 30-67). The second sheet has a plurality of embossed images disposed within the layer (col. 18, lines 10-30).

Weder also discloses a coloring layer may be applied to the upper or lower surface of the first sheet (col. 19, lines 1-15). In addition, a colored bonding material made of dye, pigment, or ink (col. 5, lines 1-15) may also be bonded to both surfaces of the first sheet (col. 14, lines 1-20). Generally, the ink can be either transparent or opaque.

Weder does not specify that the ribbon material comprising the same holographic image film structure as claimed including a high refractive index layer and a plurality of micro-embossed images disposed within the coating layer.

However, it is known in the art that the holographic image structure including the structure as claimed.

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Yamaguchi teaches that the use of a transparent compound such as zinc sulfide on the holographic image enables a desired holographic image to be reproduced in an efficient way (col. 17, lines 65-67 and col. 18, lines 1-5).

Yamaguchi teaches the same material for the high refractive index layer as claimed such as zinc sulfide, the same zinc sulfide layer would also have the same properties such as the high refractive index as claimed.

Yamaguchi also teaches that the hologram forming sheet is preferably on the order of 15-30 um (col. 4, lines 40-50). The hologram forming sheet is embossed to form hologram pattern (col. 5, lines 1-60). Since the thickness of the hologram forming sheet is on the order of microns, the embossed pattern, which has smaller thickness than the hologram forming sheet, is considered a micro-embossed pattern.

Yamaguchi further teaches that the hologram pattern formed in the resulting hologram forming sheet is less likely to be damaged or lost during subsequent processing (abstract).

Therefore, it would have been obvious to one of ordinary skill in the art to use the holographic image structure as taught by Yamaguchi in order to protect the hologram image from damaged or lost during subsequent processing. It would also have been obvious to include the zinc sulfide layer to provide a desired holographic image to be reproduced in an efficient way.

Weder does not disclose the substrate is made of polyester.

Yamaguchi teaches that the substrate for the holographic image is formed of a biaxially polypropylene resin film or any other transparent materials including a polyester resin film or a cellophane film (col. 21, lines 35-45).


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It would have been obvious to one of ordinary skill in the art to the polyester resin layer as the substrate in Weder's holographic structure because the polyester resin can provide the same transparent and flexible properties as the biaxially polypropylene resin disclosed by Weder.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling X. Xu whose telephone number is 571-272-1546. The examiner can normally be reached on 8:00 - 4:30 Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah D. Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ling X. Xu
Examiner
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